

1           **91.40 Applying for certification of ordinance.** A political subdivision  
2 seeking certification of a farmland preservation zoning ordinance or amendment to  
3 a farmland preservation zoning ordinance shall submit all of the following to the  
4 department in writing, along with any other relevant information that the political  
5 subdivision chooses to provide:

6           (1) The complete farmland preservation zoning ordinance or amendment  
7 proposed for certification.

8           (2) All of the following background information:

9           (a) A concise summary of the farmland preservation zoning ordinance or  
10 amendment, including key changes from any previously certified farmland  
11 preservation zoning ordinance.

12           (b) A concise summary of the process by which the farmland preservation  
13 zoning ordinance or amendment was developed, including public hearings, notice to  
14 and involvement of other governmental units, approval by the political subdivision,  
15 and identification of any key unresolved issues with other governmental units  
16 related to the farmland preservation zoning ordinance or amendment.

17           (c) A description of the relationship of the farmland preservation zoning  
18 ordinance or amendment to the county certified farmland preservation plan,  
19 including any material inconsistencies between the farmland preservation zoning  
20 ordinance or amendment and the county certified farmland preservation plan.

21           (3) A statement, signed by the county planning director or the chief elected  
22 official, certifying that the farmland preservation zoning ordinance or amendment  
23 complies with s. 91.38 (1) (g) and (h).

1           (4) A statement, signed by the applicant's attorney or chief elected official,  
2           certifying that the farmland preservation zoning ordinance or amendment complies  
3           with all applicable requirements in s. 91.38.

4           (5) Other relevant information that the department requires by rule.

5           **91.42 Land use in farmland preservation zoning districts; general.** A  
6           farmland preservation zoning ordinance does not qualify for certification under s.  
7           91.36, if the farmland preservation zoning ordinance allows a land use in a farmland  
8           preservation zoning district other than the following land uses:

9           (1) Uses identified as permitted uses in s. 91.44.

10          (2) Uses identified as conditional uses in s. 91.46.

11          (3) Prior nonconforming uses, subject to the following:

12           (a) A prior nonconforming use that is a residence may be expanded or  
13           remodeled, as long as there is no increase in the number of dwelling units in the  
14           residence.

15           (b) A prior nonconforming use that is not a residence may continue without  
16           further approval unless it is materially altered.

17           (c) The proposed farmland preservation zoning districts under the farmland  
18           preservation zoning ordinance contain only isolated prior nonconforming uses.

19          (4) Other uses allowed by the department by rule.

20          **91.44 Permitted uses.** (1) A farmland preservation zoning ordinance does  
21          not comply with s. 91.42 if the farmland preservation zoning ordinance allows as a  
22          permitted use in a farmland preservation zoning district a land use other than the  
23          following land uses:

24           (a) Agricultural uses.

25           (b) Accessory uses.

1 (c) Agriculture-related uses.

2 (d) Nonfarm residences constructed in a rural residential cluster in accordance  
3 with an approval of the cluster as a conditional use under s. 91.46 (1) (e).

4 (e) Undeveloped natural resource and open space areas.

5 (f) A transportation, utility, communication, or other use that is required under  
6 state or federal law to be located in a specific place or that is authorized to be located  
7 in a specific place under a state or federal law that preempts the requirement of a  
8 conditional use permit for that use.

9 (g) Other uses identified by the department by rule.

10 (2) The department may promulgate rules imposing additional limits on the  
11 permitted uses that may be allowed in a farmland preservation zoning district in  
12 order for a farmland preservation zoning ordinance to comply with s. 91.42.

13 **91.46 Conditional uses.** (1) GENERAL. A farmland preservation zoning  
14 ordinance does not comply with s. 91.42 if the farmland preservation zoning  
15 ordinance allows as a conditional use in a farmland preservation zoning district a  
16 land use other than the following land uses:

17 (a) Agricultural uses.

18 (b) Accessory uses.

19 (c) Agriculture-related uses.

20 (d) Nonfarm residences that qualify under sub. (2) or that meet more restrictive  
21 standards in the farmland preservation zoning ordinance.

22 (e) Nonfarm residential clusters that qualify under sub. (3) or that meet more  
23 restrictive standards in the farmland preservation zoning ordinance.

24 (f) Transportation, communications, pipeline, electric transmission, utility, or  
25 drainage uses that qualify under sub. (4).

(g) Governmental, institutional, religious, or nonprofit community uses, other than uses covered by par. (f), that qualify under sub. (5).

(h) Nonmetallic mineral extraction that qualifies under sub. (6).

(i) Oil and gas exploration or production that is licensed by the department of natural resources under subch. II of ch. 295.

(j) Other uses allowed by the department by rule.

**(1m)** ADDITIONAL LIMITATIONS. The department may promulgate rules imposing additional limits on the conditional uses that may be allowed in a farmland preservation zoning district in order for a farmland preservation zoning ordinance to comply with s. 91.42.

**(2)** NONFARM RESIDENCES. A nonfarm residence qualifies for the purposes of sub. (1) (d) if the political subdivision determines that all of the following apply:

(a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the nonfarm residence will be located will not be greater than 1 to 20 after the nonfarm residence is constructed.

(b) There will not be more than 4 dwelling units in nonfarm residences, nor more than 5 dwelling units in residences of any kind, on the base farm tract after the nonfarm residence is constructed.

(c) The location of the proposed nonfarm residential parcel, and the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:

1. Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there are reasonable alternative locations for a nonfarm residential parcel or nonfarm residence.

1           2. Significantly impair or limit the current or future agricultural use of other  
2     protected farmland.

3           **(3) NONFARM RESIDENTIAL CLUSTER.** A political subdivision may issue one  
4     conditional use permit that covers more than one nonfarm residence in a qualifying  
5     nonfarm residential cluster. A nonfarm residential cluster qualifies for the purposes  
6     of sub. (1) (e) if all of the following apply:

7           (a) The parcels on which the nonfarm residences would be located are  
8     contiguous.

9           (b) The political subdivision imposes legal restrictions on the construction of  
10    the nonfarm residences so that if all of the nonfarm residences were constructed,  
11    each would satisfy the requirements under sub. (2).

12          **(4) TRANSPORTATION, COMMUNICATIONS, PIPELINE, ELECTRIC TRANSMISSION, UTILITY,**  
13    **OR DRAINAGE USE.** A transportation, communications, pipeline, electric transmission,  
14    utility, or drainage use qualifies for the purposes of sub. (1) (f) if the political  
15    subdivision determines that all of the following apply:

16          (a) The use and its location in the farmland preservation zoning district are  
17    consistent with the purposes of the farmland preservation zoning district.

18          (b) The use and its location in the farmland preservation zoning district are  
19    reasonable and appropriate, considering alternative locations, or are specifically  
20    approved under state or federal law.

21          (c) The use is reasonably designed to minimize conversion of land, at and  
22    around the site of the use, from agricultural use or open space use.

23          (d) The use does not substantially impair or limit the current or future  
24    agricultural use of surrounding parcels of land that are zoned for or legally restricted  
25    to agricultural use.

1 (e) Construction damage to land remaining in agricultural use is minimized  
2 and repaired, to the extent feasible.

3 **(5) GOVERNMENTAL, INSTITUTIONAL, RELIGIOUS, OR NONPROFIT COMMUNITY USE.** A  
4 governmental, institutional, religious, or nonprofit community use qualifies for the  
5 purposes of sub. (1) (g) if the political subdivision determines that all of the following  
6 apply:

7 (a) The use and its location in the farmland preservation zoning district are  
8 consistent with the purposes of the farmland preservation zoning district.

9 (b) The use and its location in the farmland preservation zoning district are  
10 reasonable and appropriate, considering alternative locations, or are specifically  
11 approved under state or federal law.

12 (c) The use is reasonably designed to minimize the conversion of land, at and  
13 around the site of the use, from agricultural use or open space use.

14 (d) The use does not substantially impair or limit the current or future  
15 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
16 to agricultural use.

17 (e) Construction damage to land remaining in agricultural use is minimized  
18 and repaired, to the extent feasible.

19 **(6) NONMETALLIC MINERAL EXTRACTION.** Nonmetallic mineral extraction  
20 qualifies for the purposes of sub. (1) (h) if the political subdivision determines that  
21 all of the following apply:

22 (a) The operation complies with subch. I of ch. 295 and rules promulgated under  
23 that subchapter, with applicable provisions of the local ordinance under s. 295.13 or  
24 295.14, and with any applicable requirements of the department of transportation  
25 concerning the restoration of nonmetallic mining sites.

1 (b) The operation and its location in the farmland preservation zoning district  
2 are consistent with the purposes of the farmland preservation zoning district.

3 (c) The operation and its location in the farmland preservation zoning district  
4 are reasonable and appropriate, considering alternative locations outside the  
5 farmland preservation zoning district, or are specifically approved under state or  
6 federal law.

7 (d) The operation is reasonably designed to minimize the conversion of land  
8 around the extraction site from agricultural use or open space use.

9 (e) The operation does not substantially impair or limit the current or future  
10 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
11 to agricultural use.

12 (f) The farmland preservation zoning ordinance requires the owner to restore  
13 the land to agricultural use, consistent with any required locally approved  
14 reclamation plan, when extraction is completed.

15 **91.48 Rezoning of land out of a farmland preservation zoning district.**

16 (1) A political subdivision with a certified farmland preservation zoning ordinance  
17 may rezone land out of a farmland preservation zoning district without having the  
18 rezoning certified under s. 91.36, if all of the following apply:

19 (a) The political subdivision finds all of the following, after public hearing:

20 1. The land is better suited for a use not allowed in the farmland preservation  
21 zoning district.

22 2. The rezoning is consistent with any applicable comprehensive plan.

23 3. The rezoning is substantially consistent with the county certified farmland  
24 preservation plan.

1           4. The rezoning will not substantially impair or limit current or future  
2 agricultural use of surrounding parcels of land that are zoned for or legally restricted  
3 to agricultural use.

4           (b) The owner of the land pays to the political subdivision, for each rezoned acre  
5 or portion thereof, a conversion fee equal to the greater of the following:

6           1. Three times the per acre value, for the year in which the land is rezoned, of  
7 the highest value category of tillable cropland in the city, village, or town in which  
8 the rezoned land is located, as specified by the department of revenue under s. 73.03  
9 (2a).

10          2. An amount specified in the certified farmland preservation zoning  
11 ordinance.

12          (2) A political subdivision shall by March of 1 each year provide all of the  
13 following to the department:

14           (a) A report of the number of acres that the political subdivision has rezoned  
15 out of a farmland preservation zoning district under sub. (1) during the previous year  
16 and a map that clearly shows the location of those acres.

17           (b) A report of the total amount of conversion fees that the political subdivision  
18 received as conversion fees under sub. (1) (b) for the rezoned acres under par. (a).

19           (c) A conversion fee equal to the amount under sub. (1) (b) 1. for each rezoned  
20 acre reported under par. (a).

21          (3) A political subdivision that is not a county shall by March 1 of each year  
22 submit a copy of the information that it reports to the department under sub. (2) (a)  
23 and (b) to the county in which the political subdivision is located.



**91.60 Farmland preservation agreements; general. (1) AGREEMENTS AUTHORIZED.** The department may enter into a farmland preservation agreement that complies with s. 91.62 with the owner of land that is eligible under sub. (2).

1           (2) ELIGIBLE LAND. Land is eligible if all of the following apply:

2           (a) The land is operated as part of a farm that produced at least \$6,000 in gross  
3 farm revenues during the taxable year preceding the year in which the owner applies  
4 for a farmland preservation agreement or a total of at least \$18,000 in gross farm  
5 revenues during the last 3 taxable years preceding the year in which the owner  
6 applies for a farmland preservation agreement.

7           (b) The land is located in a farmland preservation area identified in a certified  
8 farmland preservation plan.

9           (c) The land is in an agricultural enterprise area designated under s. 91.84.

10          (3) PRIOR AGREEMENTS. (a) Except as provided in par. (c) or s. 91.66, a farmland  
11 preservation agreement entered into before the effective date of this paragraph ....  
12 [LRB inserts date], remains in effect for the term specified in the agreement and  
13 under the terms that were agreed upon when the agreement was last created,  
14 extended, or renewed.

15          (b) The department may not extend or renew a farmland preservation  
16 agreement entered into before the effective date of this paragraph .... [LRB inserts  
17 date].

18          (c) The department and an owner of land who entered into a farmland  
19 preservation agreement before the effective date of this paragraph .... [LRB inserts  
20 date] may agree to modify the farmland preservation agreement in order to allow the  
21 owner to claim the tax credit under s. 71.613 rather than the tax credit for which the  
22 owner would otherwise be eligible.

23           **91.62 Farmland preservation agreements; requirements. (1) CONTENTS.**

24           The department may not enter into a farmland preservation agreement unless the  
25 agreement does all of the following:

1 (a) Specifies a term of at least 15 years.

2 (b) Includes a correct legal description of the tract of land covered by the  
3 farmland preservation agreement.

4 (c) Includes provisions that restrict the tract of land to the following uses:

5 1. Agricultural uses and accessory uses.

6 2. Undeveloped natural resource and open space uses.

7 (2) FORM. The department shall specify a form for farmland preservation  
8 agreements that complies with s. 59.43 (2m).

9 (3) EFFECTIVENESS. A farmland preservation agreement takes effect when it is  
10 signed by all owners of the land covered by the farmland preservation agreement and  
11 by the department.

12 (4) RECORDING. The department shall provide a copy of a signed farmland  
13 preservation agreement to a person designated by the signing owners and shall  
14 promptly present the signed agreement to the register of deeds for the county in  
15 which the land is located for recording.

16 (5) CHANGE OF OWNERSHIP. A farmland preservation agreement is binding on  
17 a person who purchases land during the term of a farmland preservation agreement  
18 that covers the land.

19 **91.64 Applying for a farmland preservation agreement.** (1) SUBMITTING  
20 AN APPLICATION. An owner who wishes to enter into a farmland preservation  
21 agreement shall submit an application, on a form provided by the department, to the  
22 county clerk of the county in which the land is located.

23 (2) CONTENTS OF APPLICATION. A person submitting an application under sub.  
24 (1) shall include all of the following in the application:

1 (a) The name and address of each person who has an ownership interest in the  
2 land proposed for coverage by the agreement.

3 (b) The location of the land proposed for coverage, indicated by street address,  
4 global positioning system coordinates, or township, range, and section.

5 (c) The legal description of the land proposed for coverage.

6 (d) A map or aerial photograph of the land proposed for coverage, showing  
7 parcel boundaries, residences and other structures, and significant natural features.

8 (e) Information showing that the land proposed for coverage is eligible under  
9 s. 91.60 (2).

10 (f) A description of every existing mortgage, easement, and lien, other than  
11 liens on growing crops, on land proposed for coverage, including the name and  
12 address of the person holding the lien, mortgage, or easement.

13 (g) A signed agreement from each person required to be identified under par.  
14 (f) subordinating the person's lien, mortgage, or easement to the agreement.

15 (h) Any other information required by the department by rule.

16 (i) Any fee under sub. (2m).

17 **(2m)** COUNTY PROCESSING FEE. A county may charge a reasonable fee for  
18 processing an application for a farmland preservation agreement.

19 **(3)** COUNTY REVIEW. (a) A county shall review an application under sub. (2) to  
20 determine whether the land proposed for coverage meets the requirements under s.  
21 91.60 (2) (b) and (c). The county shall provide its findings to the applicant in writing  
22 within 60 days after the day on which the county clerk receives a complete  
23 application.

24 (b) If the county finds under par. (a) that the land proposed for coverage meets  
25 the requirements under s. 91.60 (2) (b) and (c), the county shall promptly send all of

1 the following to the department, along with any other comments that the county  
2 chooses to provide:

3 1. The original application, including all of the information provided with the  
4 application.

5 2. A copy of the county's findings.

6 **(4) DEPARTMENT ACTION ON APPLICATION.** (a) The department may prepare a  
7 farmland preservation agreement that complies with s. 91.62 and enter into the  
8 farmland preservation agreement under s. 91.60 (1) based on a complete application  
9 and on county findings under sub. (3) (b).

10 (b) The department may decline to enter into a farmland preservation  
11 agreement for any of the following reasons:

12 1. The application is incomplete.

13 2. The land is not eligible land under s. 91.60 (2).

14 **91.66 Terminating a farmland preservation agreement.** (1) The  
15 department may terminate a farmland preservation agreement or release land from  
16 a farmland preservation agreement at any time if all of the following apply:

17 (a) All of the owners of land covered by the farmland preservation agreement  
18 consent to the termination or release, in writing.

19 (b) The department finds that the termination or release will not impair or limit  
20 agricultural use of other protected farmland.

21 (c) The owners of the land pay to the department, for each acre or portion  
22 thereof released from the farmland preservation agreement, a conversion fee equal  
23 to 3 times the per acre value, for the year in which the farmland preservation  
24 agreement is terminated or the land is released, of the highest value category of

① tillable cropland in the <sup>city, village, or</sup> town in which the land is located, as specified by the  
2 department of revenue under s. 73.03 (2a).

3 (1m) All conversion fees received under sub. (1) (c) shall be deposited in the  
4 working lands fund.

5 (2) The department shall provide a copy of its decision to terminate a farmland  
6 preservation agreement or release land from a farmland preservation agreement to  
7 a person designated by the owners of the land and shall present a copy of the decision  
8 to the register of deeds for the county in which the land is located for recording.

9 **91.68 Violations of farmland preservation agreements.** (1) The  
10 department may bring an action in circuit court to do any of the following:

11 (a) Enforce a farmland preservation agreement.

12 (b) Restrain, by temporary or permanent injunction, a change in land use that  
13 violates a farmland preservation agreement.

14 (c) Seek a civil forfeiture for a change in land use that violates a farmland  
15 preservation agreement.

16 (2) A forfeiture under sub. (1) (c) may not exceed twice the fair market value  
17 of the land covered by the agreement at the time of the violation.

18 **91.70 Farmland preservation agreements; exemption from special**  
19 **assessments.** (1) Except as provided in sub. (3), no political subdivision, special  
20 purpose district, or other local governmental entity may levy a special assessment  
21 for sanitary sewers or water against land in agricultural use, if the land is covered  
22 by a farmland preservation agreement.

23 (2) A political subdivision, special purpose district or other local governmental  
24 entity may deny the use of improvements for which the special assessment is levied  
25 to land that is exempt from the assessment under sub. (1).

**(3)** The exemption under sub. (1) does not apply to an assessment that an owner voluntarily pays, after the assessing authority provides notice of the exemption under sub. (1).

## SUBCHAPTER V

## SOIL AND WATER CONSERVATION

**91.80 Soil and water conservation by persons claiming tax credits.** An owner claiming farmland preservation tax credits under s. 71.613 shall comply with applicable land and water conservation standards promulgated by the department under ss. 92.05 (3) (c) and (k), 92.14 (8), and 281.16 (3) (b) and (c).

**91.82 Compliance monitoring. (1) COUNTY RESPONSIBILITY.** (a) A county land conservation committee shall monitor compliance with s. 91.80.

(b) For the purpose of par. (a), a county land conservation committee shall inspect each farm for which the owner claims farmland preservation tax credits under subch. IX of ch. 71 at least once every 4 years.

(c) For the purpose of par (a), a county land conservation committee may do any of the following:

1. Inspect land that is covered by a farmland preservation agreement or farmland preservation zoning and that is in agricultural use.

2. Require an owner to certify, not more than annually, that the owner complies with s. 91.80.

(d) At least once every 4 years, the department shall review each county land conservation committee's compliance with par. (b).

(2) NOTICE OF NONCOMPLIANCE. (a) A county land conservation committee shall issue a written notice of noncompliance to an owner if the committee finds that the owner has done any of the following:

1 1. Failed to comply with s. 91.80.

2 2. Failed to permit a reasonable inspection under sub. (1) (c) 1.

3 3. Failed to certify compliance as required under sub. (1) (c) 2.

4 (b) A county land conservation committee shall provide to the department of  
5 revenue a copy of each notice of noncompliance issued under par. (a).

6 (c) If a county land conservation committee determines that an owner has  
7 corrected the failure described in a notice of noncompliance under par. (a), it shall  
8 withdraw the notice of noncompliance and notify the owner and the department of  
9 revenue of the withdrawal.

10 (3) PROCEDURE. The department may promulgate rules prescribing procedures  
11 for the administration of this section by land conservation committees.

## 12 SUBCHAPTER VI

### 13 AGRICULTURAL ENTERPRISE AREAS

14 **91.84 Agricultural enterprise areas; general.** (1) DESIGNATION. (a) 1. The  
15 department may by rule designate agricultural enterprise areas targeted for  
16 agricultural preservation and development.

17 2. The department may by rule modify or terminate the designation of an  
18 agricultural enterprise area.

19 (b) Subject to par. (c), the department may designate agricultural enterprise  
20 areas with a combined area of not more than 1,000,000 acres of land.

21 (c) Before January 1, 2012, the department may designate not more than 10  
22 agricultural enterprise areas with a combined area of not more than 200,000 acres  
23 of land.

24 (e) The department may not designate an area as an agricultural enterprise  
25 area unless all of the following apply:



1           1. The department receives a petition requesting the designation and the  
2 petition complies with s. 91.86.

3           3. The parcels in the area are contiguous. Parcels that are only separated by  
4 a lake, stream, or transportation or utility right-of-way are contiguous for the  
5 purposes of this subdivision.

6           4. The area is located entirely in a farmland preservation area identified in a  
7 certified farmland preservation plan.

8           5. The land in the area is primarily in agricultural use.

9           (f) In designating agricultural areas under this subsection, the department  
10 shall give preference to areas that include at least 1,000 acres of land.

11           **SECTION 77.** 92.04 (2) (c) of the statutes is repealed.

12           **SECTION 78.** 92.05 (3) (L) of the statutes is amended to read:

13           92.05 (3) (L) *Technical assistance; performance standards.* The department  
14 shall provide technical assistance to county land conservation committees and local  
15 units of government for the development of ordinances that implement standards  
16 adopted under s. 92.07 (2), ~~92.105 (1)~~, 92.15 (2) or (3) or 281.16 (3). The department's  
17 technical assistance shall include preparing model ordinances, providing data  
18 concerning the standards and reviewing draft ordinances to determine whether the  
19 draft ordinances comply with applicable statutes and rules.

20           **SECTION 79.** 92.104 of the statutes is repealed.

21           **SECTION 80.** 92.105 of the statutes is repealed.

22           **SECTION 81.** 92.106 of the statutes is repealed.

23           **SECTION 82.** 92.14 (2) (e) of the statutes is amended to read:

material  
moved  
from  
pages 69-72

1           92.14 (2) (e) Promoting ~~compliance with the requirements under ss. 92.104 and~~  
2   92.105 soil and water conservation by persons claiming ~~a~~ farmland preservation  
3   credit tax credits under subch. IX of ch. 71.

4           **SECTION 83.** 92.14 (3) (a) 1. of the statutes is amended to read:

5           92.14 (3) (a) 1. Compliance with soil and water conservation requirements  
6   under ~~ss. 92.104 and 92.105~~ by applicable to persons claiming ~~a~~ farmland  
7   preservation credit tax credits under subch. IX of ch. 71.

8           **SECTION 84.** 92.14 (3) (d) of the statutes is amended to read:

9           92.14 (3) (d) Implementing land and water resource management projects  
10   undertaken to comply with the soil and water conservation requirements under ~~ss.~~  
11   92.104 and 92.105 by applicable to persons claiming ~~a~~ farmland preservation credit  
12   tax credits under subch. IX of ch. 71.

13          **SECTION 85.** 93.06 (10m) of the statutes is amended to read:

14          93.06 (10m) FARMLAND PRESERVATION COLLECTIONS. Enter into contracts to  
15   collect amounts owed to the state under ch. 91, 2007 stats., as the result of the  
16   relinquishment of, or the release of land from, a farmland preservation agreement  
17   or as the result of the rezoning of land zoned for exclusive agricultural use.

18          **SECTION 86.** 101.143 (4) (ei) 1m. a. of the statutes is amended to read:

19          101.143 (4) (ei) 1m. a. The owner or operator of the farm tank owns a parcel  
20   of 35 or more acres of contiguous land, on which the farm tank is located, which is  
21   devoted primarily to agricultural use, as defined in s. 91.01 (1) (2), including land  
22   designated by the department of natural resources as part of the ice age trail under  
23   s. 23.17, which during the year preceding submission of a first claim under sub. (3)  
24   produced gross farm profits, as defined in s. 71.58 (4), of not less than \$6,000 or  
25   which, during the 3 years preceding that submission produced gross farm profits, as

1 defined in s. 71.58 (4), of not less than \$18,000, or a parcel of 35 or more acres, on  
2 which the farm tank is located, of which at least 35 acres, during part or all of the  
3 year preceding that submission, were enrolled in the conservation reserve program  
4 under 16 USC 3831 to 3836.

5 **SECTION 87.** 101.143 (4) (ei) 1m. b. of the statutes is amended to read:

6 101.143 (4) (ei) 1m. b. The claim is submitted by a person who, at the time that  
7 the notification was made under sub. (3) (a) 3., was the owner of the farm tank and  
8 owned a parcel of 35 or more acres of contiguous land, on which the farm tank is or  
9 was located, which was devoted primarily to agricultural use, as defined in s. 91.01  
10 ~~(1)~~ (2), including land designated by the department of natural resources as part of  
11 the ice age trail under s. 23.17, which during the year preceding that notification  
12 produced gross farm profits, as defined in s. 71.58 (4), of not less than \$6,000 or  
13 which, during the 3 years preceding that notification, produced gross farm profits,  
14 as defined in s. 71.58 (4), of not less than \$18,000, or a parcel of 35 or more acres, on  
15 which the farm tank is located, of which at least 35 acres, during part or all of the  
16 year preceding that notification, were enrolled in the conservation reserve program  
17 under 16 USC 3831 to 3836.

18 **SECTION 88.** 165.25 (4) (ar) of the statutes is amended to read:

19 165.25 **(4)** (ar) The department of justice shall furnish all legal services  
20 required by the department of agriculture, trade and consumer protection relating  
21 to the enforcement of ss. 91.68, 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,  
22 100.182, 100.195, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42,  
23 100.50, and 100.51, and 100.55, and chs. 126, 136, 344, 704, 707, and 779, together  
24 with any other services as are necessarily connected to the legal services.

25 **SECTION 89.** 281.16 (3) (e) of the statutes is amended to read:

281.16 (3) (e) An owner or operator of an agricultural facility or practice that is in existence before October 14, 1997, may not be required by this state or a municipality to comply with the performance standards, prohibitions, conservation practices or technical standards under this subsection unless cost-sharing is available, under s. 92.14 or 281.65 or from any other source, to the owner or operator. For the purposes of this paragraph, sub. (4) and ss. 92.07 (2), ~~92.105 (1)~~, 92.15 (4) and 823.08 (3) (c) 2., the department of natural resources shall promulgate rules that specify criteria for determining whether cost-sharing is available under s. 281.65 and the department of agriculture, trade and consumer protection shall promulgate rules that specify criteria for determining whether cost-sharing is available under s. 92.14 or from any other source. The rules may not allow a determination that cost-sharing is available to meet local regulations under s. 92.07 (2), ~~92.105 (1)~~ or 92.15 that are consistent with or that exceed the performance standards, prohibitions, conservation practices or technical standards under this subsection unless the cost-sharing is at least 70% of the cost of compliance or is from 70% to 90% of the cost of compliance in cases of economic hardship, as defined in the rules.

**SECTION 90.** 281.65 (5) (b) of the statutes is amended to read:

281.65 (5) (b) Prepare sections of the priority watershed or priority lake plan relating to farm-specific implementation schedules, requirements under ss. ~~92.104 and 92.105~~ s. 281.16 (3), animal waste management and selection of agriculturally related best management practices and submit those sections to the department for inclusion under sub. (4m) (b). The best management practices shall be cost-effective best management practices, as specified under sub. (4) (e), except in situations in which the use of a cost-effective best management practice will not contribute to water quality improvement or will cause a water body to continue to be impaired as

1 identified to the federal environmental protection agency under 33 USC 1313 (d) (1)  
2 (A).

3 **SECTION 91.** 281.65 (5) (d) of the statutes is amended to read:

4 281.65 (5) (d) Develop a grant disbursement and project management schedule  
5 for agriculturally related best management practices to be included in a plan  
6 established under sub. (4) (g) and identify recommendations for implementing  
7 activities or projects under ss. 92.10, ~~92.104 and 92.105~~ and 281.16 (3).

8 **SECTION 92.** 281.65 (5) (e) of the statutes is amended to read:

9 281.65 (5) (e) Identify areas within a priority watershed or priority lake area  
10 that are subject to activities required under ss. ~~92.104 and 92.105~~ s. 281.16 (3).

11 **SECTION 93.** 289.33 (3) (d) of the statutes is amended to read:

12 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,  
13 authorization, approval, variance or exception or any restriction, condition of  
14 approval or other restriction, regulation, requirement or prohibition imposed by a  
15 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by  
16 a town, city, village, county or special purpose district, including without limitation  
17 because of enumeration any ordinance, resolution or regulation adopted under s.  
18 91.73, 2007 stats., s. 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2),  
19 (5), (6), (7), (8), (9), (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24),  
20 (25), (26) and (27), 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19),  
21 (20) and (23), 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10),  
22 (11), (12), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4),  
23 (5) and (6), 59.56 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57  
24 (1), 59.58 (1) and (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1),  
25 (2), (3), (5), (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (5), (6), (7), (8),

(10) and (11), 59.792 (2) and (3), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354, 62.11, 62.23, 62.231, 62.234, 66.0101, 66.0415, 87.30, ~~91.73~~, 196.58, 200.11 (8), 236.45, 281.43 or 349.16 or, subch. VIII of ch. 60, or subch III of ch. 91.

**SECTION 94.** 823.08 (2) (b) of the statutes is amended to read:

823.08 (2) (b) "Agricultural use" has the meaning given in s. 91.01 ~~(1)~~ (2).

**SECTION 95.** 846.04 (1) of the statutes is amended to read:

846.04 (1) The plaintiff may, in the complaint, demand judgment for any deficiency that may remain due the plaintiff after sale of the mortgaged premises against every party who is personally liable for the debt secured by the mortgage. Judgment may be rendered for any deficiency remaining after applying the proceeds of sale to the amount due. The judgment for deficiency shall be ordered in the original judgment and separately rendered against the party liable on or after the confirmation of sale. The judgment for deficiency shall be entered in the judgment and lien docket and, except as provided in subs. (2) and (3), enforced as in other cases. A mortgage foreclosure deficiency judgment entered on or after October 14, 1997, on property devoted primarily to under agricultural use, as defined in s. 91.01 (5), on and after October 14, 1997, (2), for at least 12 consecutive months during the preceding 36-month period shall be recorded as an agriculture judgment.

**SECTION 96.** 846.04 (2) of the statutes is amended to read:

846.04 (2) Except as provided in sub. (3), if a mortgage foreclosure deficiency judgment is entered on property devoted primarily to under agricultural use, as defined in s. 91.01 (5), (2), for at least 12 consecutive months during the preceding 36-month period, an action on the deficiency judgment shall be commenced within

1 10 years after the date on which the mortgage foreclosure deficiency judgment is  
2 entered or be barred.

3 **SECTION 97.** 946.13 (2) (g) of the statutes is amended to read:

4 946.13 (2) (g) Contracts with, or tax credits or payments received by, public  
5 officers or employees for wildlife damage claims or abatement under s. 29.889, for  
6 farmland preservation under s. 91.13, 2007 stats., or s. 91.60 or subch. IX of ch. 71  
7 and s. 91.13, soil and water resource management under s. 92.14, soil erosion control  
8 under s. 92.10, 1985 stats., animal waste management under s. 92.15, 1985 stats.,  
9 and nonpoint source water pollution abatement under s. 281.65.

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10 → **(2) EMERGENCY RULES.** The department may use the procedure under s. 227.24  
11 to promulgate a rule designating an agricultural preservation area or modifying or  
12 terminating the designation of an agricultural preservation area. Notwithstanding  
13 s. 227.24 (1) (c) and (2), a rule promulgated under this subsection remains in effect  
14 until the department modifies or repeals the rule. Notwithstanding s. 227.24 (1) (a)  
15 and (3), the department is not required to determine that promulgating a rule under  
16 this subsection as an emergency rule is necessary for the preservation of the public  
17 peace, health, safety, or welfare and is not required to provide a finding of emergency  
18 for a rule promulgated under this subsection.

19 **(3) EFFECT OF DESIGNATION.** The designation of an area under sub. (1) allows  
20 owners of eligible land within the area to enter into farmland preservation  
21 agreements with the department. If the department modifies or terminates the  
22 designation of an area under sub. (1) and that modification or termination results in  
23 land covered by a farmland preservation agreement no longer being located in a  
24 designated area, the farmland preservation agreement remains in effect for the

move to 63-10

1 remainder of its term, but the department may not extend or renew the farmland  
2 preservation agreement.

3 (4) MAP. In a rule designating an agricultural enterprise area, the department  
4 shall include a map that clearly shows the boundaries of the proposed agricultural  
5 enterprise area so that a reader can easily determine whether a parcel of land is  
6 located within the agricultural enterprise area.

7 (5) EFFECTIVE DATE OF DESIGNATION. The designation of an agricultural  
8 enterprise area takes effect on January 1 of the calendar year following the year in  
9 which the rule designating the area is published, unless the rule specifies a later  
10 effective date.

11 **91.86 Agricultural enterprise area; petition.** (1) DEFINITION. In this  
12 section, "eligible farm" means a farm that produced at least \$6,000 in gross farm  
13 revenues during the taxable year preceding the year in which a petition is filed  
14 requesting the department to designate an area in which the farm is located as an  
15 agricultural enterprise area or a total of at least \$18,000 in gross farm revenues  
16 during the 3 taxable years preceding the year in which a petition is filed.

17 (2) PETITIONERS. (a) The department may consider a petition requesting that  
18 it designate an area as an agricultural enterprise area if all of the following jointly  
19 file the petition:

20 1. Each political subdivision in which any part of the proposed agricultural  
21 enterprise area is located.

22 2. Owners of at least 5 eligible farms located in the area.

23 (b) Each petitioner under par. (a) who is an individual shall sign the petition.  
24 For a petitioner that is not an individual, an authorized officer or representative  
25 shall sign the petition.

Move to 63-10



(3) CONTENTS OF PETITION. (a) The department may not approve a petition requesting that it designate an area as an agricultural enterprising area unless the petition contains all of the following:

1. The correct legal name and principal address of each petitioner.
2. A summary of the petition that includes the purpose and rationale for the petition.
3. A map that clearly shows the boundaries of the proposed agricultural enterprise area so that a reader can easily determine whether a parcel of land is located within the proposed area.
4. Information showing that the proposed agricultural enterprise area meets the requirements under s. 91.84 (1) (e).
5. A clear description of current land uses in the proposed agricultural enterprise area, including current agricultural uses, agriculture-related uses, transportation, utility, energy, and communication uses, and undeveloped natural resource and open space uses.
6. A clear description of the agricultural land use and development goals for the proposed agricultural enterprise area, including proposed agricultural uses, agriculture-related uses, and relevant transportation, utility, energy, and communication uses.
7. A plan for achieving the goals under subd. 6., including any planned investments, grants, development incentives, cooperative agreements, land or easement purchases, land donations, and promotion and public outreach activities.
8. A description of any current or proposed land use controls in the proposed agricultural enterprise area, including farmland preservation agreements.

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**AGRICULTURE**  
**FARMLAND PRESERVATION PROGRAM**

***General***

This bill makes numerous changes in the Farmland Preservation Program, which contains some of the requirements that a farmer must meet to qualify for the farmland preservation tax credit. The Farmland Preservation Program includes farmland preservation planning, farmland preservation zoning, farmland preservation agreements, and soil and water conservation requirements.

Under current law, for a farmer to qualify for the farmland preservation tax credit the farm must be in a zoning district zoned exclusively for agriculture under a zoning ordinance certified by the Land and Water Conservation Board (LWCB) or be covered by a farmland preservation agreement executed by DATCP, or both. In order for DATCP to enter into a farmland preservation agreement, the county in which the farmer lives must have a farmland preservation plan that is certified by LWCB.

Under the bill, DATCP certifies farmland preservation plans and zoning ordinances.

***Farmland preservation planning***

This bill requires every county to adopt a farmland preservation plan. The bill does not require that a county get its plan certified, but if a county does not have a certified plan, a farmer in the county is ineligible for the farmland preservation tax credit, unless the farm is covered by a farmland preservation agreement entered into before the bill becomes law.

The bill provides that the certifications of current farmland preservation plans expire according to a schedule specified in the bill, <sup>increase in</sup> except for certifications that currently contain expiration dates. The expiration dates in the bill range from December 31, 2011, to December 31, 2015. The higher the population per square mile of a county, the sooner its farmland preservation plan certification expires. A county must submit an updated farmland preservation plan that meets the requirements in the bill and get it certified by DATCP to enable to farmers in the county to continue to claim the farmland preservation tax credit. Under the bill, DATCP must certify a plan for a period of not more than ten years.

The bill requires a county to include all of the following in its farmland preservation plan:

1. A statement of the county's policy and goals related to farmland preservation and agricultural development.
2. A description of trends and plans related to development that may affect farmland preservation and agricultural development.
3. A description of current agricultural uses of land in the county; agricultural resources, such as available land and water; agricultural infrastructure, such as

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processing and transportation facilities; trends in the county related to agricultural land use; and actions that the county will take to preserve farmland and promote agricultural development.

4. An identification of farmland preservation areas, which are areas that the county plans to preserve for agricultural use and for related uses, such as facilities for processing agricultural products or agricultural waste.

The bill requires a county that has a comprehensive plan (including what is commonly known as a smart growth plan) to ensure that the farmland preservation plan is consistent with its comprehensive plan.

The bill requires a county seeking to have DATCP certify its farmland preservation plan to submit the plan and related information to DATCP. The county must certify that the plan complies with the requirements in the bill. DATCP may certify the plan based on the county's certification or may review the plan and determine whether it does comply with those requirements. The bill requires a county with a certified farmland preservation plan to submit any amendments to the plan to DATCP for certification.

The bill establishes a program under which DATCP awards planning grants to counties. A grant may reimburse a county for up to 50 percent of the cost of preparing a farmland preservation plan. DATCP may not distribute more than 50 percent of a grant before the county submits the plan to DATCP for certification.

### ***Farmland preservation zoning***

Under this bill, as under current law, a city, village, town, or county (political subdivision) may adopt a zoning ordinance that enables farmers to be eligible for the farmland preservation tax credit.

The bill provides that certifications of current farmland preservation zoning ordinances expire according to a schedule specified in the bill, except for certifications that currently contain expiration dates. The dates range from December 31, 2012, to December 31, 2016. The higher the population per square mile of a political subdivision, the sooner its certification expires. A political subdivision must submit an updated farmland preservation zoning ordinance that meets the requirements in the bill and have it certified by DATCP to enable farmers in the political subdivision to continue to claim the farmland preservation tax credit based on the zoning ordinance. Under the bill, DATCP must certify a zoning ordinance for a period of not more than ten years.

Under the bill, to be eligible for certification, a farmland preservation zoning ordinance must be substantially consistent with a certified county farmland preservation ordinance.

Under current law, land in a farmland preservation zoning district must be limited to agricultural use, with certain exceptions. Current law allows, as conditional uses, agriculturally related, religious, utility, institutional, or governmental uses that are consistent with agricultural use and are necessary in light of alternative locations available. Family farm businesses may also be allowed, with a conditional use permit, if they are conducted in existing structures.

Under the bill, in addition to agricultural uses, a political subdivision may allow accessory uses and agriculture-related uses in a farmland preservation district with

Zoning

*other*  
a conditional use permit. Accessory uses are conducted on a farm and include uses that are incidental to agricultural uses and family farm businesses. Agriculture-related uses include businesses that sell farm equipment or supplies and businesses that store or process agricultural products or that process agricultural wastes. A political subdivision may also include undeveloped natural resource and open space areas in a farmland preservation zoning district. DATCP may promulgate rules that specify additional uses that may be allowed in farmland preservation districts without a conditional use permit.

The bill also specifies uses that may be allowed in a farmland preservation zoning district with a conditional use permit. Generally, transportation, communications, utility, governmental, institutional, religious, and nonprofit community uses are in this category if the political subdivision makes certain determinations. The determinations include that the proposed use and its location in the zoning district are reasonable and appropriate, considering alternative locations, that the use is reasonably designed to minimize the conversion of land from agricultural use or open space, and that the use does not substantially impair the agricultural use of surrounding parcels that are zoned for agricultural use.

Current law requires a political subdivision to specify a minimum lot size for farmland preservation zoning districts. This bill eliminates that requirement.

This bill provides two methods for political subdivisions to allow the construction of nonfarm residences in farmland preservation zoning districts. A political subdivision may issue a conditional use permit for the construction of one nonfarm residence if several requirements are satisfied. The requirements include that the ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence will be located will not be greater than 1 to 20 after the residence is constructed and that there will not be more than four nonfarm dwelling units, nor five dwelling units of any kind, on the base farm tract after the nonfarm residence is constructed. A base farm tract is all of the land, whether one parcel or two or more contiguous parcels, that is in a farmland preservation zoning district and is part of a single farm when DATCP first certifies the updated farmland preservation zoning ordinance.

The bill also authorizes a political subdivision to issue a conditional use permit that covers more than one nonfarm residence in what is called a nonfarm residential cluster. The parcels on which the nonfarm residences would be constructed must be contiguous and the political subdivision must ensure that if all of the nonfarm residences were constructed, each would satisfy the conditions described above for approval of one nonfarm residence.

The bill requires a political subdivision seeking to have DATCP certify its farmland preservation zoning ordinance to submit the ordinance and related information to DATCP. The political subdivision must certify that the ordinance complies with the requirements in this bill. DATCP may certify the ordinance based on the political subdivision's certification or may review the ordinance and determine whether it does comply with those requirements.

Under current law, a political subdivision may rezone land out of a farmland preservation zoning district only after making findings based on consideration of

whether adequate public facilities exist or will be provided to accommodate development, whether providing public facilities to accommodate development will place an unreasonable burden on affected local governments, whether the land proposed for rezoning is suitable for development, and whether development will cause undue water or air pollution or unreasonably adverse effects on rare natural areas. The law requires political subdivisions to notify DATCP when they rezone land out of a farmland preservation district.

Under the bill, in order to rezone land out of a farmland preservation zoning district, a political subdivision must make a number of findings, including that the land is better suited for a use not allowed in a farmland preservation zoning district, that the rezoning is substantially consistent with the certified county farmland preservation plan, and that the rezoning will not not substantially impair the agricultural use of surrounding parcels that are zoned for agricultural use. The bill does not require a political subdivision to report each rezoning, but it does require an annual report of the amount and location of land that was rezoned.

Under current law, when property is rezoned out of a farmland preservation zoning district, DATCP is required to place a lien on the rezoned land until the owner of the land makes a payment to this state that is equal to the farmland preservation tax credits received by the owner of the land during the preceding ten years plus interest. The law also requires DATCP to file a lien when a conditional use permit is granted for a use that is not an agricultural use.

The bill eliminates the lien requirements. Under the bill, a political subdivision may not rezone land out of a farmland preservation zoning district until the owner of the land makes a payment to the political subdivision equal to the number of acres rezoned multiplied by three times the per acre value of the highest value of cropland in the city, village, or town in which the land is located as determined by DOR for the purposes of use value assessment. A political subdivision must annually pay this amount to DATCP for each parcel of land that it rezones. A political subdivision may require a higher payment for rezoning and retain the amount in excess of what it must pay to DATCP.

Under the bill, most amendments to a certified farmland preservation zoning ordinance are automatically considered to be certified. An amendment that is a comprehensive revision of the ordinance or an amendment that extends coverage of an ordinance to a town that was not previously covered is not automatically considered to be certified and DATCP may specify other types of amendments that are not automatically considered to be certified.

### ***Farmland preservation agreements***

Under current law, DATCP enters into farmland preservation agreements with farmers in counties with certified farmland preservation plans. To qualify for coverage under an agreement, the land must consist of at least 35 acres and produce a specified amount of farm profits and must be in an agricultural preservation planning area or in a farmland preservation zoning district under a certified ordinance. An agreement requires the landowner to maintain the land in agricultural use for a term specified in the agreement, except that DATCP may release land from the agreement under specified circumstances. The term of a

farmland preservation agreement must be from ten to 25 years, subject to renewal for additional ten to 25 year terms.

This bill prohibits DATCP from renewing current farmland preservation agreements. The bill authorizes DATCP to enter into a new farmland preservation agreement only for land that is in an agricultural enterprise area, designated by DATCP using the current statutory procedure for promulgating emergency rules. To qualify for coverage by a farmland preservation agreement, land must produce a specified amount of gross farm revenues. A farmland preservation agreement must be for a term of at least 15 years.

Under the bill, DATCP may not designate agricultural enterprise areas with a combined area of more than 1,000,000 acres and, before January 1, 2012, may not designate agricultural enterprise areas with a combined area of more than 200,000 acres. DATCP may not designate an area as an agricultural enterprise area unless it is entirely located in a farmland preservation area identified in a certified farmland preservation plan and it is primarily in agricultural use. DATCP may not designate an area as an agricultural enterprise area unless it receives a petition requesting the designation filed by each political subdivision in which any part of the area is located and by the owners of at least five farms that would be eligible for coverage by farmland preservation agreements.

Current law specifies situations in which DATCP may release land from, or terminate, a farmland preservation agreement. Generally, when land is released or an agreement is terminated DATCP is required to place a lien on the land until the owner of the land makes a payment to this state that is equal to the farmland preservation tax credits received by the owner during the preceding ten years plus interest.

This bill eliminates the lien requirement. Under the bill, DATCP may release land from, or terminate, a farmland preservation agreement if it finds that the termination or release will not impair or limit agricultural use of other farmland that is covered by an agreement or is in a farmland preservation zoning district and if the owner of the land pays to DATCP an amount equal to the number of acres rezoned multiplied by three times the per acre value of the highest value of cropland in the city, village, or town in which the land is located as determined by DOR for the purposes of use value assessment.

### ***Soil and water conservation***

Current law requires counties to establish soil and water conservation standards. The county must have the standards approved by LWCB in order for farmers in the county to be eligible for farmland preservation tax credits. The law requires a county to monitor compliance with its soil and water conservation standards. If a county determines that a farmer violates the standards, it must issue a notice of noncompliance to the farmer. As long as a farmer is out of compliance with the county standards, the farmer is ineligible for the farmland preservation tax credit.

This bill eliminates the requirement that each county establish soil and water conservation standards. Under the bill, a farmer must comply with land and water conservation standards that DATCP has promulgated under other current laws. The

bill continues the requirement that a county monitor compliance with the standards and specifically requires a county to inspect each farm for which the owner claims farmland preservation tax credits at least once every four years. The bill also requires farmers to certify compliance annually. The bill requires DATCP to review county compliance with the monitoring requirement. The bill requires a county to issue a notice of noncompliance if it determines that a farmer violates the standards or fails to certify compliance. The county must provide a copy of each notice to DOR. As long as a farmer is out of compliance with DATCP's standards, the farmer is ineligible for the farmland preservation tax credit.

For a description of the changes in the farmland preservation <sup>tax</sup> credit, please see "TAXATION."



**2009-2010 DRAFTING INSERT  
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**TAXATION**

**INCOME TAXATION**

Under current law, an eligible claimant may recover a certain amount of property taxes paid through the refundable farmland preservation tax credit. A refundable tax credit means that, if the amount of the credit which is otherwise due an eligible claimant exceeds the claimant's tax liability, or if there is no outstanding tax liability, the excess amount of the credit is paid to the claimant by check.

One of the current law eligibility requirements for the farmland preservation tax credit is that the farmland to which the claim relates be subject either to a farmland preservation agreement or to a county exclusive agricultural use zoning ordinance. A farmland preservation agreement and an exclusive agricultural use zoning ordinance require the claimant to abide by certain soil and water conservation standards. A farmland preservation agreement is generally entered into for a term of 10 to 25 years, although the parties may agree to relinquish the agreement under certain circumstances.

The credit is computed under a formula that is based on property taxes accrued on the claimant's farmland in the preceding calendar year, the claimant's household income, and the contract, planning, or zoning provisions that cover the farmland. The maximum credit that a claimant is eligible for is \$4,200, and the minimum credit that an eligible claimant may receive is \$600. The maximum credit for which the claimant is otherwise eligible is reduced based on the zoning ordinances that are in effect in the county in which the farmland is located, although the minimum credit is never less than \$600 for an eligible claimant.

Under this bill, no new claims may be filed for taxable years beginning after December 31, 2009, but an otherwise eligible claimant who is subject to a farmland preservation agreement that is in effect on January 1, 2010, may continue to file a claim for the credit until the agreement expires.

This bill also creates a new farmland preservation credit which is refundable. The credit is funded from the lottery fund, up to approximately \$15,000,000 of claims, and any excess claims, up to approximately \$12,280,000 are funded from the general fund. Under the bill, the maximum amount of credits that may be claimed each year may not exceed \$27,280,000.

The new farmland preservation credit is calculated by multiplying a claimant's qualifying acres (QA) by one of the following amounts: \$10, if the QA are in a farmland preservation zoning district and are subject to a new farmland preservation agreement (FPA), meaning a FPA that was entered into after the effective date of the bill; \$7.50 if the QA are located in a farmland preservation zoning district, but are not subject to a new FPA; or \$5.00 if the QA are subject to a new FPA, but are not located in a farmland preservation zoning district. If the total amount of eligible claims exceed \$27,280,00, DOR is required to adjust these dollar amounts,

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\$10, \$7.50, and \$5.00, while maintaining the ratio for the amounts, to ensure that the \$27,280,000 maximum is not exceeded.

Generally, the bill defines QA as the number of acres of farm that correlate to a claimant's percentage of ownership interest in a farm, the extent to which the farm is covered by a new FPA, and whether the farm is in farmland preservation zoning district. For a description of the requirements of a new FPA, please see "AGRICULTURE."

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files a claim under this section

Section #. 71.58 (1) of the statutes is amended to read:

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with (b) 71.58 (1) "Claimant" means an owner of farmland, as defined in s. 91.01 (9), domiciled in this state during the entire year for which a credit under this subchapter is claimed, except as follows: taxable to the claim section relates, who

1. (a) When 2 or more individuals of a household are able to qualify individually as a claimant, they may determine between them who the claimant shall be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision is final.
2. (b) If any person in a household has claimed or will claim credit under subch. VIII, all persons from that household are ineligible to claim any credit under this subchapter for the year to which the credit under subch. VIII pertained. section
3. (c) For partnerships except publicly traded partnerships treated as corporations under s. 71.22 (1k), "claimant" means each individual partner.
4. (cm) For limited liability companies, except limited liability companies treated as corporations under s. 71.22 (1k), "claimant" means each individual member.
5. (d) For purposes of filing a claim under this subchapter, the personal representative of an estate and the trustee of a trust shall be considered owners of farmland. "Claimant" does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest. section
6. (e) For purposes of filing a claim under this subchapter, when land is subject to a land contract, the claimant shall be the vendee under the contract. section
7. (f) For purposes of filing a claim under this subchapter, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward. section
8. (g) For a tax-option corporation, "claimant" means each individual shareholder.

History: 411; 1989 a. 31; 1993 a. 112; 2005 a. 25, 387. 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 2005 a. 25, 387.

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land conservation committee unless, in the last preceding year, the claimant received a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

(b) If a farm is jointly owned by 2 or more persons who file separate income or franchise tax returns, each person may claim a credit under this section based on the person's ownership interest in the farm.

(c) If a person acquires or transfers ownership of a farm during a taxable year for which a claim may be filed under this section, the person may file a claim under this section based on the person's liability for the property taxes levied on the person's qualifying acres for the taxable year to which the claim relates.

(d) A claimant shall claim the credit under this section on a form prepared by the department and shall submit any documentation required by the department.

On the claim form, the claimant shall certify all of the following:

1. The number of qualifying acres for which the credit is claimed.
2. The location and tax parcel number for each parcel on which the qualifying acres are located.
4. That the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both.
5. That the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards, as required by s. 91.80.

(e) No credit may be allowed under this section unless it is claimed within the time period under s. 71.75 (2).

(f) The maximum amount of the credits that may be claimed under this section in any fiscal year is \$27,280,000. If the total amount of eligible claims exceed this amount, the department shall prorate the credits to ensure that the limit specified in this paragraph is not exceeded.

END of INS 25-6

move to 63-10

(b) Petitioners under sub. (2) may include in the petition the names and addresses of other persons who propose to cooperate in achieving the goals under par.

(a) 6.

end of move material

#### SECTION 9343. Initial applicability; Revenue.

(1) FARMLAND PRESERVATION CREDIT. The treatment of section 71.613 of the statutes first applies to taxable years beginning on January 1, 2010.

(END)

D-NOTE

Andrew Miner and Jana Steinmetz;

This version of the bill deletes the material from A. 79.135, makes the appropriations in A. 20.835(2)(d) and (g) sum certain, reinstates A. 71.613(3)(f) from earlier versions of the bill, ~~and~~

and incorporates the definition of "claimant" from S. 71.58<sup>(1)</sup> instead of PATCP's definition.   
 ✓ A. 71.58<sup>(1)</sup> from earlier versions of the bill.

MZL

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0203/1dn  
MES:cjs:ph

January 29, 2009

Andrew Miner and Jana Steinmetz:

This version of the bill deletes the material from s.79.135, makes the appropriations in s.20.835 (2) (do) and (qb) sum certain, reinstates s. 71.613 (3) (f) from earlier versions of the bill, and incorporates the definition of "claimant" from s. 71.58 (1) instead of DATCP's definition from earlier versions of the bill.

Marc E. Shovers  
Managing Attorney  
Phone: (608) 266-0129  
E-mail: [marc.shovers@legis.wisconsin.gov](mailto:marc.shovers@legis.wisconsin.gov)

**Shovers, Marc**


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**From:** Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]  
**Sent:** Friday, January 30, 2009 12:08 PM  
**To:** Shovers, Marc  
**Cc:** Miner, Andrew - DOA; Ziegler, Paul D - DOR; Walker, William D - DATCP  
**Subject:** FW: farmland credit revision

Marc,

This is what I mentioned to you earlier that has been agreed to, pending any changes that will be needed in order to draft this. Please look it over and let us know if you have any questions.

Thanks,  
 Jana

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**From:** Ziegler, Paul D - DOR  
**Sent:** Friday, January 30, 2009 11:55 AM  
**To:** Steinmetz, Jana D - DOA  
**Cc:** Walker, William D - DATCP; Koskinen, John B - DOR; Templeton, Carrie E - DOR; Wink, Wendy L - DOR; Cianciara, Jacek J - DOR  
**Subject:** farmland credit revision

Jana -- Is the approach that you, John K. and I discussed this morning.

(I also discussed with Bill over the phone as well -- but he has yet to see this written out with this detail.)

Assuming the desire is to retain annual (i.e. sum certain) appropriations for both the SEG and GPR funding components of the revised credit:

1. Specify that if, IN ANY fiscal year, the amount of the claims exceeds the cap amount, the remaining remaining claims shall be paid in the subsequent fiscal year. In addition, no interest shall be paid on the claims, or any other refund amount to be paid to such claimants, if due to the cap, the payment of the claimant's farm pres credit is delayed.

(This extra bit about "or any other refund amount to be paid to such claimants" is intended to allow DOR to set aside the entirety of the claimant's return without having to pay interest to the claimant, even if they may be getting some refund that may be attributed to other portions of their tax return. This saves us from having to do multiple processing and multiple checks to the same claimant.)

2. Without any change in the cap, and without any change in the annual appropriations, specify that for the second and all subsequent years of the credit, DOR may prorate the per acre payment amounts so that the expected amount to be spent in the fiscal year in which the claims are filed is the cap amount less any amount no longer available because it was spent on the prior year claims. So, for example, if first year claims exceed the \$27.28m cap by \$3.00 million, then DOR sets the per acre amounts as they appear on the tax forms at lower amounts so that DOR anticipates that \$24.28m (\$27.28 less \$3.00 million) will be claimed in the next year. If claims exceed the cap again, the excess is again paid in the subsequent fiscal year.

In this manner, payments do not exceed the cap in any year, no interest is paid if payments are delayed due to the cap, and, over time, as experience shows the magnitude of claims and type of claims expected, the per acre payments would be expected to stabilize.

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